

### REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 1, 11, 21, 40, and 50 are amended. Claims 1-7, 10-17, 20-27, 30 and 40-76 remain actively pending in the case. No new matter has been added. Reconsideration of the claim is respectfully requested.

On page 2 of the Office Action, claims 1-7, 11-17, 21-27, 40-76 were rejected under 35 USC § as being unpatentable over Hoekstra et al. (US 6,304,277). On page 5 of the Office Action, dependent claims 10, 20 and 30 were rejected under 35 USC §103(a) as being unpatentable over Hoekstra et al. as applied to claims 1, 11 and 21, in view of Hopkins (6,282,462).

Hoekstra fails to teach or suggest at least a server having software for manipulating and for ordering of goods and/or services by said user with respect to said image. Rather, Hoekstra is related to modification of digital image files. Accordingly, Hoekstra does not disclose, expressly or inherently, having software for ordering of goods and/or services by said user with respect to said image.

Hoekstra also fails to teach or suggest at least said service provider providing feed back to said user based on said meta data and said user using said software with respect to said low resolution digital image file.

In order to render a claim anticipated by the prior art, each and every element of the claim must be disclosed in a single reference. In construing claims, the court in *Phillips* has recently emphasized that "claims must be read in view of the specification." *Phillips v. AWH Corp.*, 415 F.3d 1303,1315 (Fed. Cir. 2005). In fact, the Federal Circuit explained that the specification is "usually . . .dispositive. . . [and] the single best guide to the meaning of a disputed term." *Id.* (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582). For these reasons, the Federal Circuit confirmed that it is "entirely appropriate for a court, when conducting claim construction, to rely heavily on the written description for guidance as to the meaning of the claims." *Phillips*, 415 F.3d at 1317.

Hoekstra merely discloses transmitting a script file from the image correction site back to the image origination site. See Col. 6, lines 6-8. Hoekstra defines a script file as a file containing the list of instructions representing the modifications performed by the image correction specialist. See Col. 5, lines 56-59. However,

Hoekstra does not disclose, expressly or inherently, a service provider providing feed back to a user based on meta data. *See at least* pages 6-7 of Applicants' Specification.

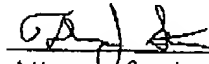
Also, Hoekstra also fails to teach or suggest at least a user using said software on said server at said first location with respect to said low resolution digital image file. *See at least* pages 6 and 8 of Applicants' Specification. Rather, Hoekstra discloses that a job ticket may be transferred to the image correction specialist that enumerates the corrections and/or image conditions desired on the part of the image order. *See* Col. 5, lines 15-19. However, in Hoekstra, a user at the origination site does not interact with software at the correction site. Accordingly, Hoekstra does not disclose, expressly or inherently, using software on said server at said first location.

Hopkins fails to remedy the deficiencies of Hoekstra as Hopkins was asserted to allegedly disclose interrupted and resumed image transmission. However, Hopkins fails to teach or suggest at least the limitations disclosed above.

In view of the above remarks, Applicants respectfully submit that claim 1 is patentable over the cited references. Rejected independent claims 11, 21, 40 and 50 recite one or more feature generally similar to those of claim 1 discussed above and, for similar reasons as discussed above, are believed to be patentable over the cited references. Because claims 2-7, 10 depend from claim 1, claims 12-17, 20 depend from claim 11, claims 22-27, 30 depend from claim 21, claims 41-49 depend from claim 40, and claims 51-76 depend from claims 50, respectively, and include the features recited in the independent claims as well as additional features, Applicants respectfully submit that claims 2-7, 10, 12-17, 20, 22-27, 30, 41-49 and 51-76 are also patentably distinct over the cited references. Nevertheless, Applicants are not conceding the correctness of the Examiner's rejection with respect to such dependent claims and reserves the right to make additional arguments if necessary.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

  
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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.